

102D CONGRESS
1ST SESSION

S. 1462

To amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 8), 1991

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Automated Telephone
5 Consumer Protection Act”.

1 **SEC. 2. RESTRICTIONS ON THE USE OF AUTOMATED TELE-**
2 **PHONE EQUIPMENT.**

3 (a) **AMENDMENT.**—Title II of the Communications
4 Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding
5 at the end the following new section:

6 **“SEC. 228. RESTRICTIONS ON THE USE OF AUTOMATED**
7 **TELEPHONE EQUIPMENT.**

8 “(a) **DEFINITIONS.**—As used in this section—

9 “(1) The term ‘automatic telephone dialing sys-
10 tem’ means equipment which has the capacity—

11 “(A) to store or produce telephone num-
12 bers to be called, using a random or sequential
13 number generator; and

14 “(B) to dial such numbers.

15 “(2) The term ‘telephone facsimile machine’
16 means equipment which has the capacity to tran-
17 scribe text or images, or both, from paper into an
18 electronic signal and to transmit that signal over a
19 regular telephone line.

20 “(3) The term ‘unsolicited advertisement’
21 means any material advertising the commercial
22 availability or quality of any property, goods, or
23 services which is transmitted to any person without
24 that person’s prior express invitation or permission.

25 “(b) **RESTRICTIONS.**—It shall be unlawful for any
26 person within the United States—

1 “(1) to make any call using any automatic tele-
2 phone dialing system, telephone facsimile machine,
3 or an artificial or prerecorded voice—

4 “(A) to any emergency telephone line of
5 any hospital, medical physician or service office,
6 health care facility, or fire protection or law en-
7 forcement agency; or

8 “(B) to any telephone number assigned to
9 paging or cellular telephone service;

10 “(2) to initiate any telephone call to any resi-
11 dence using an artificial or prerecorded voice to de-
12 liver a message without the prior, express, written
13 consent of the called party, unless the call is initiat-
14 ed by a public school or other governmental entity;
15 or

16 “(3) to send an unsolicited advertisement by a
17 facsimile machine.

18 “(c) TECHNICAL AND PROCEDURAL STANDARDS.—

19 “(1) PROHIBITION.—It shall be unlawful for
20 any person within the United States—

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22 telephone facsimile machine, or to make any
23 telephone call using any automatic telephone di-
24 aling system that does not comply with the
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1 under this subsection, or to use any telephone
2 facsimile machine or automatic telephone dial-
3 ing system (to make any telephone solicitation)
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5 standards; or

6 “(B) to use a computer or other electronic
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9 son clearly marks, in a margin at the top or
10 bottom of each transmitted page of the adver-
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17 nical and procedural standards for telephone facsim-
18 ile machines to require that any such machine
19 which—

20 “(A) is manufactured after 6 months after
21 the date of enactment of this section, and

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25 each transmitted page or on the first page of each

1 transmission, the date and time sent, an identifica-
2 tion of the business sending the advertisement, and
3 the telephone number of the sending machine or of
4 such business. The Commission shall exempt from
5 such standards, for 18 months after such date of en-
6 actment, telephone facsimile machines that do not
7 have the capacity for automatic dialing and trans-
8 mission and that are not capable of operation
9 through an interface with a computer.

10 “(3) ARTIFICIAL OR PRERECORDED VOICE SYS-
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1 party's line to be used to make or receive other
2 calls.

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1 under this subsection, or to use any telephone
2 facsimile machine or automatic telephone dial-
3 ing system (to make any telephone solicitation)
4 in a manner that does not comply with such
5 standards; or

6 “(B) to use a computer or other electronic
7 device to send an unsolicited advertisement via
8 a telephone facsimile machine unless such per-
9 son clearly marks, in a margin at the top or
10 bottom of each transmitted page of the adver-
11 tisement, the date and time it is sent and an
12 identification of the business sending the adver-
13 tisement and the telephone number of the send-
14 ing machine or of such business.

15 “(2) TELEPHONE FACSIMILE MACHINES.—The
16 Commission shall revise the regulations setting tech-
17 nical and procedural standards for telephone facsim-
18 ile machines to require that any such machine
19 which—

20 “(A) is manufactured after 6 months after
21 the date of enactment of this section, and

22 “(B) is used for the distribution of unsolic-
23 ited advertising,

24 clearly marks, in a margin at the top or bottom of
25 each transmitted page or on the first page of each

1 transmission, the date and time sent, an identifica-
2 tion of the business sending the advertisement, and
3 the telephone number of the sending machine or of
4 such business. The Commission shall exempt from
5 such standards, for 18 months after such date of en-
6 actment, telephone facsimile machines that do not
7 have the capacity for automatic dialing and trans-
8 mission and that are not capable of operation
9 through an interface with a computer.

10 “(3) ARTIFICIAL OR PRERECORDED VOICE SYS-
11 TEMS.—The Commission shall prescribe technical
12 and procedural standards for systems that are used
13 to transmit any artificial or prerecorded voice mes-
14 sage via telephone. Such standards shall require
15 that—

16 “(A) all artificial or prerecorded telephone
17 messages (i) shall, at the beginning of the mes-
18 sage, state clearly the identity of the business
19 initiating the call, and (ii) shall, during or after
20 the message, state clearly the telephone number
21 or address of such business; and

22 “(B) any such system will automatically
23 release the called party’s line within 5 seconds
24 of the time the system receives notification that
25 the called party has hung up, to allow the called

1 party's line to be used to make or receive other
2 calls.

3 “(d) STATE LAW NOT PREEMPTED.—Nothing in this
4 section or in the regulations prescribed under this section
5 shall preempt any State law that imposes more restrictive
6 intrastate requirements or regulations on, or which pro-
7 hibits, either or both of the following:

8 “(1) the use of telephone facsimile machines or
9 other electronic devices to send unsolicited advertise-
10 ments; and

11 “(2) the use of automatic telephone dialing sys-
12 tems to transmit prerecorded telephone solicitations.

13 “(e) EFFECTIVE DATE OF REQUIREMENTS.—The re-
14 quirements of subsection (b) shall take effect 30 days after
15 the date of enactment of this section, and all other provi-
16 sions of this section shall take effect upon such date of
17 enactment.”.

18 (b) CONFORMING AMENDMENT.—Section 2(b) of the
19 Communications Act of 1934 (47 U.S.C. 152(b)) is
20 amended by striking “and 225” and inserting in lieu
21 thereof “, 225, and 228”.